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April 15, 2020

VIA ECF

The Honorable William H. Pauley III
United States District Court
Southern District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Room 1920
New York, New York 10007

Re: U.S. v. Romero et al., No. 1:19-cr-734 (WHP)

Dear Judge Pauley:

We represent Cristian Guerrero-Melgares, a defendant in the above-captioned matter. We write respectfully to request that the Court order the Bureau of Prisons (the “BOP”) to release Mr. Guerrero-Melgares’ medical records to defense counsel.

On April 4, 2020, we filed a letter motion (the “Letter Motion”) requesting that the Court immediately and temporarily release Mr. Guerrero-Melgares to home detention with associated additional bail conditions. ECF No. 46. Our request for Mr. Guerrero-Melgares’ release was based in part on the serious health risks that COVID-19 poses to him as an asthmatic individual detained at the Metropolitan Correctional Center (“MCC”), as well as our inability to communicate with our client due to the lockdown at the MCC and the lack of response from the MCC Legal Department regarding our request for a legal call with Mr. Guerrero-Melgares to discuss his condition in greater detail. The Government filed its opposition on April 7, 2020. ECF No. 48.

The Court held a telephonic hearing on our request for Mr. Guerrero-Melgares’ release on April 9, 2020. During that conference, we explained that we had learned from brief, non-privileged emails with Mr. Guerrero-Melgares over the CorrLinks email system and discussions with multiple members of his family that he suffers from a life-long respiratory condition, asthma, which puts him at high risk of experiencing serious health complications if he contracts COVID-19. We also noted that the MCC Legal Department’s failure to respond over a three-week period to our six requests for a legal call had prevented us from obtaining more detailed information about Mr. Guerrero-Melgares’ history of asthma and treatment for that condition at the MCC.

On April 10, 2020, after our motion for temporary release was denied, we received a call from Mr. Guerrero-Melgares from the unit manager’s office on his block at the MCC. This was our

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first communication with our client, other than CorrLinks email communications, in over a month. Mr. Guerrero-Melgares explained to us that his breathing difficulties had increased while at the MCC, and that he is currently using an inhaler two or more times per day. He also informed us that the MCC's medical team examined him over a month ago; during this examination, he explained to MCC personnel that he has suffered from asthma for his entire life and was having difficulty breathing. The MCC medical staff responded by providing Mr. Guerrero-Melgares with an inhaler and has continued to check on him regularly to ensure that his breathing is stable. He has also received pain medication from the MCC staff to help alleviate chest pain that he is experiencing due to his asthma. We understand that Mr. Guerrero-Melgares has requested additional medication to treat his condition but has not yet received it, and also that he is experiencing headaches.

In light of his worsening symptoms, and in order to adequately represent him and advocate for his health and well-being, it is critical that we receive a full copy of Mr. Guerrero-Melgares' medical records from the MCC. We are aware that the Attorney Guide to the Metropolitan Correctional Center provides procedures for requesting a pretrial detainee's medical records.¹ Given the COVID-19 pandemic and the resulting conditions at the MCC, including a total ban on legal visiting, we are unable to follow these procedures and obtain our client's signature on a consent to release authorization form, as is required under normal circumstances. *See id.* We note however that we made Mr. Guerrero-Melgares aware during our brief call on April 10 that we would make efforts to obtain his medical records from the MCC in order to further advocate on his behalf. We seek Your Honor's immediate intervention because the COVID-19 lockdown of the MCC makes it impossible for us to timely obtain Mr. Guerrero-Melgares' medical records by adhering to the MCC's protocols. Accordingly, we respectfully ask that the Court order the MCC to release by email to the undersigned Mr. Guerrero-Melgares' complete medical records from the time that he entered the MCC to the present by no later than 5:00 pm on Friday, April 17, 2020.

Thank you for your consideration of this request.

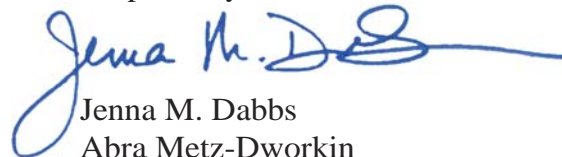
Application granted.

SO ORDERED:


WILLIAM H. PAULEY III
U.S.D.J.

April 16, 2020

Respectfully submitted,



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¹ See Attorney Guide to the Metropolitan Correctional Center, at 15, https://www.bop.gov/locations/institutions/nym/mcc_ny_attny_guide_april_2008.pdf.

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cc: (by ECF)

Assistant United States Attorneys Justin Rodriguez, Michael Longyear, and Jacob Warren